IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/09/2002

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.35521 of 2002

Chennai Pushpa Viyabarigal
and Commission Agents Sangam
rep. by its President,
Mr.T.Mariagnanam,
No.FC-119, Kamaraj Malar Angadi
Koyambedu, chennai.92. .. Petitioner

-Vs-

1. Chennai Pushpa Viyabarigal
Tharagu Agents Sangam
rep. by its President
L.Raju Chettiar.
2. L.Raju Chettiar
3. M.Marimuthu
4. A.Pannerselvam
5. K.S.Mani
6. N.S.Mani
7. S.Balakamatchi
8. M.Manoharan
9. The Registrar of Society
Central Chennai
Chennai.18 .. Respondents

PRAYER:- This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus as stated within.

For Petitioner : Mr.R.Suresh

For Respondents: Mr.D.Krishna Kumar,
Spl. Govt. Pleader for R9

:ORDER

According to the petitioner, the respondents 2, 3 and 4, who were the office bearers of the petitioner-Sangam, viz., Chennai Pushpa Viyabarigal and Commission Agents Sangam, have now delinked themselves from the petitioner-sangam unilaterally and formed a new sangam, viz., Chennai Pushpa Viyabarigal Tharagu Agents Sangam, identical with or too nearly resembling the name of the petitioner-Sangam.

2. Alleging that the respondents 2 to 8 after forming the first respondent-sangam and registering the same before the 9th respondent have misappropriated the funds of the petitioner-sangam to the tune of Rs.1.70 Lakhs and are also attempting to encash the amount which was deposited in the name of the petitioner-sangam, the petitioner-sangam seeks a writ of Mandamus to direct the 9th respondent to cancel the registration of the first respondent-sangam and to direct the respondents 3 to 8 to hand over the charges to the newly elected members and the accounts from the year 1996 to 2002.

3. It is not in dispute that some of the members of the petitionersangam have filed suit O.S.No.3243 of 2002 on the file of the XVII Assistant City Civil Court at Chennai seeking bare injunction against the first respondent-sangam and its office bearers.

4. Under the facts and circumstances of the case, even though the petitioner-sangam has got effective remedy before the Civil Court with regard to the alleged misappropriation of funds of the petitionersangam by the respondents 2 to 8 and also their further attempt in that regard, in my considered opinion, the 9th respondent is still obliged under law to exercise the powers conferred under Sections 36 and 37 of the Tamil Nadu Societies Registration Act, 1975 to take suo-motu action against the respondents 2 to 8 with regard to their alleged misappropriation of the funds of the petitioner-sangam and also to take appropriate action for the alleged violation of Section 9(1)(c) of the Tamil Nadu Societies Registration Act, 1975, under which no society shall be registered by a name, which, in the opinion of the 9th respondent is undesirable, if the name of the newly registered society is identical with or too nearly resembles with the existing society. Hence, suffice it to permit the petitioner-sangam to make a representation to the 9th respondent stating their grievance in this regard within fifteen days from the date of receipt of copy of this order, and on receipt of such representation, the ninth respondent shall exercising the powers conferred under Sections 36 and 37 of the Tamil Nadu Societies Registration Act, 1975, enquire into the matter and pass appropriate orders, of course after giving a fair and reasonable opportunity to the petitioner-sangam as well as the respondents 1 to 8, in compliance of principles of natural justice, expeditiously, in any event within ninety days from the date of receipt of such representation. If the petitioner-sangam is still aggrieved, they are at liberty to move the competent Civil Court for appropriate relief.

This writ petition is disposed of accordingly. No costs.
Consequently, W.P.M.P.No.53063 of 2002 is also dismissed.
16.9.2002
Index : Yes
Internet: Yes

sasi

To:

The Registrar of Society
Central Chennai
Chennai.18

P.D.DINAKARAN,J.